

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

SAM WILSON,

Plaintiff,

v.

20-CV-1899-LJV-JJM  
DECISION & ORDER

JORD INC.,

Defendant.

---

On December 24, 2020, the plaintiff, Sam Wilson, filed this action alleging that Jord Inc. violated Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181 *et seq.*, by operating a website that is inaccessible to individuals with visual disabilities.

Docket Item 1. On March 2, 2021, this Court referred this case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 13.

In the meantime, Jord had moved to dismiss the complaint, arguing that this Court lacked subject matter and personal jurisdiction. Docket Item 7. On August 11, 2021, Judge McCarthy issued a Report and Recommendation (“first R&R”) finding that Jord’s motion to dismiss for lack of personal jurisdiction should be granted. Docket Item 21. Wilson objected to the first R&R, and the parties fully briefed the objection. See Docket Items 22, 26, 27. On March 30, 2022, this Court accepted and adopted Judge McCarthy’s recommendation to grant Jord’s motion to dismiss but gave Wilson leave to amend his complaint to demonstrate personal jurisdiction in this case. Docket Item 28.

Wilson then filed an amended complaint, Docket Item 29, and Jord subsequently renewed its motion to dismiss for lack of subject matter and personal jurisdiction, Docket Item 30.<sup>1</sup> On January 5, 2023, Judge McCarthy issued a second R&R, again finding that Jord's motion to dismiss for lack of personal jurisdiction should be granted. Docket Item 34. The parties did not object to the second R&R, and the time to do so has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge McCarthy's second R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge McCarthy's recommendation to grant Jord's motion to dismiss.

For the reasons stated above and in the second R&R, Jord's motion to dismiss, Docket Item 30, is GRANTED. The Clerk of the Court shall close the case.

---

<sup>1</sup> Jord also moved to dismiss the amended complaint under Federal Rule of Civil Procedure 12(b)(6). Docket Item 30.

SO ORDERED.

Dated: January 27, 2023  
Buffalo, New York

*/s/ Lawrence J. Vilaro*  
LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE